

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5038 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
- 1 to 5 : No

JAY FUN PARK PRIVATE LIMITED

Versus

COLLECTOR

Appearance:

MR PV NANAVATI for Petitioners
MR TH SOMPURA, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 03/02/97

ORAL JUDGEMENT

Upon hearing learned Counsel Mr.Nanavati for the petitioners and learned Govt. Counsel Mr.Tushar Sompura, in my opinion, the present petition requires to be granted and the Rule issued earlier requires to be made absolute.

The facts are not in dispute. It appears that, under the orders dated December 28, 1994, at Annexure.F, there was a grant of the lease of the land for running a Fun-cum-Amusement Park in favour of the petitioners. It

appears that, later on, there was an endeavour on the part of the Government to put a stay on the activity of the petitioners. This led the petitioners to approach this Court by filing Special Civil Application No. 475 of 1996. The above said proceedings came to be decided in favour of the petitioners under the orders pronounced by a learned Single Judge of this Court, dated March 13, 1996. Para 6 of the said orders could be reproduced as under:

"6. It is not in dispute that the possession of the land in question was granted to petitioner No.1 only after obtaining the aforesaid no-objection certificate from the Narmada and Water Resources Department on 22nd February 1995 annexed as Annexure-II to the reply-affidavit. In that view of the matter, further proceedings for raising an amusement park and a water park on the land granted to the petitioner No.1 could not have been stayed by the impugned order".

The prayer in the present petition is for the grant of the Sanad after taking out the necessary measurement. It appears that, the learned Single Judge had not granted the prayer for the grant of the Sanad because it was pointed out that there was no refusal on the part of the State to grant the Sanad. The above said orders dated March 13, 1996 have become final as the Letters Patent Appeal No. 874 of 1996 came to be dismissed under the orders dated January 17, 1997.

Now, the prayer in the petition is for the grant of the Sanad after the necessary measurements are carried out. This, in fact, has been ordered under Annexure.F, dated December 28, 1994. Para 5 of the above said orders pronounced by the Revenue Department for and in the name of Government of Gujarat would go to show that, the necessary measurements shall have to be taken and ultimately the Sanad shall have to be issued in prescribed proforma. Therefore, it appears that, whatever the petitioners asking at present has already been ordered under the earlier orders. It has been found by the learned Single Judge that the activities of the petitioners could not have been stayed. This view of the learned Single Judge has found the favour of the intra Court Bench also.

In view of this, it appears that the present petition requires a full recognition. I order accordingly. The concerned respondent shall carry out the necessary measurement and shall issue the necessary

Sanad as understood within the meaning of the orders dated December 28, 1994, at Annexure.F. The above said exercise should be completed, as early as possible, and at any rate, within a period of six weeks from the date of the receipt of the writ of the present orders. Rule is made absolute accordingly, with no order as to costs.

The xerox copy of the order of the intra Court appeal, being presented by learned Counsel Mr. Nanavati be kept on record.
